

DR. MICHAEL R. COOPER

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CITY OF SANTA BARBARA  
CITY CLERK'S OFFICE

Madam Mayor and Council,

While I am here to appeal the City Parks and Recreations decision denying my request for the removal of a volunteer, non native Date Palm, I am also here to question the rule in the City Parks and Recreations regulations indicating that the tree can only be removed after a certified arborist or Parks and Recreation staff determines that the tree is "an immediate and eminent danger to public safety".

How is it logical for elected officials and city staff to choose to neglect a problem until it becomes "an immediate and eminent danger to public safety". In my profession, health care, if I knew a patient had a medical problem and I waited until that patient was in immediate and eminent danger, I would be guilty of malpractice. It would be interesting to have a candidate for City Council tell a group of voters, "Vote for me and I promise that I will only protect you from danger when that danger is immediate and eminent".

In addition to not being allowed to remove the tree, that I feel is a risk to public safety, Mr. Tim Downey, the Urban Forest Superintendent, informed me that I am liable if a member of the public is injured by the tree. Mr. Downey's belief that I am liable for any injuries that this tree may cause are as ludicrous as the regulation that prevents me from removing the tree. I have discussed this liability issue with my insurance agent and my lawyer. Their opinions are that the City of Santa Barbara could take this position in a liability lawsuit. However, since I have declared the tree a danger to public safety and have requested that the tree be removed and I have appealed the city's denial, a plaintiff's attorney would include the city in the lawsuit because of the city's greater financial resources.

Mr. Downey informed me that I am also responsible for maintaining the tree in state of health. One of the reasons I want the tree removed is the cost of maintaining it. The tree is getting to a height that it is becoming necessary to use a truck with bucket and an arm to trim it. Comparing the projected costs of maintenance to the fine for removing the tree it would be cost effective to remove the tree now, pay the fine and avoid the future maintenance costs.

My hope is that by appealing the ruling, you might take a much closer look at the regulation as stated, and not wait until the public is placed in "immediate and eminent danger."

Thank you.



Dr. Michael R. Cooper

## **Michael Cooper**

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**From:** Duke McPherson <treemanduke@cox.net>  
**Sent:** Monday, January 10, 2011 3:49 PM  
**To:** Dr. Michael Cooper  
**Subject:** Arborist report

Hello Dr. Cooper,

I have struggled with the idea of a viable report concerning the palm tree for days now. I have to conclude that, at this time, I cannot find a solid reason, given the current City regulations regarding "setback" trees to recommend for its removal. I would recommend, however, that you put the City on notice that you simply cannot keep up with removing every fruit on the tree throughout the year: fruit which, with their hard centers, may be a be at any time a risk to the public welfare. It seems to me this would effectively remove your liability.

Please let me know if I can be of further service in this or any other tree related matter.

Warmest regards,  
Duke McPherson